

S/N 09/825,613

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Sujit Sharan et al.

Examiner: Asok Sarkar

Serial No.: 09/825,613

Group Art Unit: 2829

Filed: April 3, 2001

Docket: 303.930US4

Title: METHOD FOR PECVD DEPOSITION OF SELECTED MATERIAL FILMS

PETITION TO RECONSIDER HOLDING OF ABANDONMENT
OR TO REVIVE APPLICATION

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Applicant respectfully requests that the Notice of Abandonment mailed January 11, 2006 be reconsidered and withdrawn as the time period for filing an appeal or request for continued examination has not yet expired. 37 CFR 1.197 Return of jurisdiction from the Board of Patent Appeals and Interferences; termination of proceedings states:

(a) Return of jurisdiction from the Board of Patent Appeals and Interferences. Jurisdiction over an application or patent under ex parte reexamination proceeding passes to the examiner after a decision by the Board of Patent Appeals and Interferences upon transmittal of the file to the examiner, subject to appellant's right of appeal or other review, for such further action by appellant or by the examiner, as the condition of the application or patent under ex parte reexamination proceeding may require, to carry into effect the decision of the Board of Patent Appeals and Interferences.

(b) Termination of proceedings.

(1) Proceedings on an application are considered terminated by the dismissal of an appeal or the failure to timely file an appeal to the court or a civil action (§ 1.304) except:

(i) Where claims stand allowed in an application; or

(ii) Where the nature of the decision requires further action by the examiner.

(2) The date of termination of proceedings on an application is the date on which the appeal is dismissed or the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit or review by civil action (§ 1.304) expires in the absence of further appeal or review. If an appeal to the U.S. Court of Appeals for the Federal Circuit or a civil action has been filed, proceedings on an application are considered terminated when the appeal or civil action is terminated. A civil action is terminated when the time to appeal the judgment

expires. An appeal to the U.S. Court of Appeals for the Federal Circuit, whether from a decision of the Board or a judgment in a civil action, is terminated when the mandate is issued by the Court.

37 CFR § 1.304 states that the time for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit (§ 1.302) or for commencing a civil action (§ 1.303) is two months from the date of the decision of the Board of Patent Appeals and Interferences. MPEP 1214.06 states that the time for seeking review of a decision of the Board by the Court of Appeals for the Federal Circuit or the U.S. District Court for the District of Columbia is the same for both tribunals, that is, 2 months. The Decision of the Board of Patent Appeals and Interferences was mailed December 30, 2005. A copy of the first page of the Board decision is enclosed with the USPTO mailed date highlighted. Accordingly, the application does not go abandoned for two months or February 28, 2006. As such, the present application should not be abandoned as the present Request for Continued Examination and further Response and Amendment are filed concurrently herewith. Withdrawal of the abandoned status of the application is requested.

In the alternative to the above, Applicants' respectfully request the revival of the above-identified patent application under 37 CFR §1.137(b) as being unintentionally abandoned for failure to respond to the Decision by the Board of Patent Appeals and Interference rendered on December 30, 2005. Abandonment of this application was unintentional, and the entire delay in filing the reply from the due date for the reply until the filing of this Petition was unintentional. Applicant authorizes charging Deposit Account No. 19-0743 in the amount of \$1,500.00 due under 37 C.F.R § 1.17(m), if required to prevent abandonment of the application. Please charge any other fees which may be due, to Deposit Account No. 19-0743.

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The Examiner is invited to telephone Applicants' attorney David Suhl at (508) 865-8211, or the undersigned attorney at (612) 349-9587 to facilitate prosecution of this application.

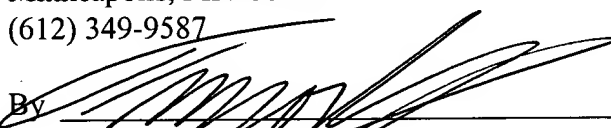
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,
SUJIT SHARAN ET AL.
By their Representatives,
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
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Date

22 Feb '06

By


Timothy B Clise
Reg. No. 40,957

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 22 day of February, 2006.

Name



Signature

